

Order

Michigan Supreme Court
Lansing, Michigan

September 28, 2009

Marilyn Kelly,
Chief Justice

138287 & (16)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 138287
COA: 288843
Berrien CC: 2005-402293-FJ

CECIL D. HUSTON,
Defendant-Appellant.

On order of the Court, the motion to add issues is GRANTED. The application for leave to appeal the December 9, 2008 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration as on leave granted of the challenge to the scoring of Offense Variable 10, MCL 777.40, in light of *People v Cannon*, 481 Mich 152 (2008). In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



d0921

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 28, 2009

Corbin R. Davis

Clerk